

**JOINT GUIDANCE:  
Legal Services Commission and The Law Society**

**PAYMENTS ON ACCOUNT**

The Legal Services Commission is conducting a national review of outstanding payments on account. For the majority of cases involved, solicitors are able to provide the information the Commission requires to close cases and reconcile the payments on account without undue difficulty. Making reports on older cases can be difficult however, particularly if the file is no longer available. So too can making reports or claims where one practice has merged with or been taken over by another.

To address these problems in future, the Commission will introduce new procedures to assist practitioners conducting civil cases to either submit a final claim for costs or to make a report on case, before the effluxion of time makes it difficult for a claim or report to be made. The Commission and The Law Society have jointly agreed the guidance set out below.

**Reminder Letters**

From the information it receives the Commission can identify cases likely to be drawing to a conclusion. If a certificate is discharged or revoked for example, if a decision on the statutory charge has been made, if monies have been paid on deposit into the fund or if a case has not “moved” on our computer system for a year, it is probable that work on the case has concluded or is concluding. In future, if the Commission has not received a final claim for costs or report within twelve months of any of these “trigger” events occurring in a case, the Commission will write to the solicitor with conduct, to seek a report as to when a final bill or report will be received.

The first batch of these reminder letters is likely to be issued in January 2008 by the Finance Centre in Leeds. All correspondence in respect of the letters should be with Leeds and not the regional offices. For ease of response, a simple form will be sent with the letter and solicitors can chose to send this back either by DX, post or e-mail. Full details will be outlined in the reminder letter itself. Solicitors who receive reminder letters of this type, in January and thereafter, are asked to assist the Commission by providing the information required within the timeframe specified.

**Annotated “BACS” Statements**

In the absence of a file it can be difficult for solicitors to check whether or not a final claim for costs was made for work done under a specific certificate. Where a number of certificates have been issued on behalf of the same client, there can be confusion as to which certificates have been claimed for or reported upon and which have not. The current BACS payment statements the Commission provides tie payments to particular certificates, but do not provide a definitive confirmation that the payments on account have been reconciled and a final payment made.

In future, as from April 2008, when a final bill is paid the Commission will annotate its BACS statements using the term "Final Bill", to confirm against each of the certificates listed that a final claim has been paid and the payments on account have been reconciled. If a payment is reconciled other than through the normal billing process, BACS statements will be annotated with the term "POA Closed". Where either annotation appears against a particular certificate, the solicitor can be assured that there is no longer a payment on account outstanding against the certificate concerned.

This procedure will give BACS statements an enhanced evidential value. The Commission will not seek to recover any outstanding payment on account from a certificate on which one of the above assurances has been provided. Solicitors can therefore check BACS statements received, to satisfy themselves that all certificates on which a claim or report has been made have been properly annotated. Any concern as to any "missing" annotation can be reported to the Commission at that point.

### **Mergers or Takeovers**

When a practice intends to merge with or "take over" another and one or both practices have a legal aid account, the Commission should be notified through the firms' Account Manager(s) at the earliest possible opportunity. The Commission will then provide each of the firms involved with details of all outstanding payments on their account or accounts. The Account Manager will ask the firms involved to agree and confirm who will be responsible for any inchoate liability to the Commission that might arise from the payments outstanding.

The Commission will not necessarily seek to recover or reconcile all payments outstanding before a merger or takeover happens. However, firms should be aware that a merger or takeover is likely to prompt a payments on account review.

### **Firms Withdrawing from Publicly Funded Work**

If a firm decides to stop doing publicly funded work (or if for any reason a Contract is terminated) the Commission will wish to work with the firm to reconcile its account or accounts.

If a firm decides to stop taking new publicly funded cases therefore, with immediate effect or at an agreed future date, the firm should notify their Account Manager of their decision as soon as possible. The Account Manager will arrange for the Commission to provide the firm with the information necessary to reconcile any outstanding payments on account and will work with the firm to resolve any issues involved.

Queries about this guidance should be addressed to Joe Cowley and sent by e-mail to: [joe.cowley@legalservices.gov.uk](mailto:joe.cowley@legalservices.gov.uk)